HIGH COURT OF UTTARANCHAL AT NAINITAL

Bail Application No. 1130 of 2006

CRIMINAL SIDE

Sakhwat Hussain s/o Aziz Ahmad,
Mohalla Saria, P.s. & Kasba Fatehganj West,
District Bareilly (U.P.) ....Accused/Applicant

Versus

State of Uttaranchal ..... Opposite Party

Case Crime No. 1021 of 2006
Under Section 20/22 N.D.P.S. Act, P.S. Kichha, District Udham Singh Nagar.

Dated: 19.12.2006

By the Court

Hon'ble Rajesh Tandon, J.

Heard Sri A.S. Gill, Advocate for the applicant and the A.G.A. for the prosecution.

The applicant has applied for bail in case crime No. 1021 of 2006, for the offences punishable under sections 20/22 N.D.P.S. Act. P.S. Kichha, District Udham Singh Nagar.

According to the prosecution case 500 grm. Smack was recovered from the possession of the applicant by the Police on 12.6.2006. F.I.R. to this effect was lodged in P.S. Kichha on the same day at 7.30 PM. He has argued that it is not a commercial quantity.

Counsel for the applicant has submitted that the police has not made compliance of the provisions of Section 50 of the N.D.P.S. Act. He has also submitted that the accused applicant is a handicapped person and he cannot walk without assistance of others.

Apart from that the F.I.R. shows that 10 gms. of recovered article is being sent for analysis whereas the record shows that 5 mg. recovered article was sent for analysis. The counsel for the applicant has referred the case of Rajesh Jagdamba Avasthi vs. State of Goa, 2005 SAR (Criminal) 50, where the contraband charas was found deficient in weight and the Apex Court has set aside the conviction on this ground.

Without expressing anything on the merit of the case, I am of the opinion that it is a fit case for bail.

Let the accused applicant be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the Magistrate concerned.

Rajesh Tandon, J.

Dated: 19.12.06
*Dhyani